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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,555	02/19/2004	Daniel B. Laubacher	CL2237USNA	5156

23906 7590 03/13/2006

E I DU PONT DE NEMOURS AND COMPANY
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WILMINGTON, DE 19805

EXAMINER

LAWRENCE JR, FRANK M

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/782,555

Applicant(s)

LAUBACHER ET AL.

Examiner

Frank M. Lawrence

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>(2)</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 4-10, 13-19, 22-28 and 31-35 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 10/782,319 in view of EP 633420. The co-pending claims disclose all of the limitations of the instant claims except that the vessel is a pressure vessel and that the getter is activated by passing an electrical current through an internal heater. EP ‘420 discloses a getter for a gas storage cylinder that can be activated using an internal electrical heating element (8). It would have been obvious to one having ordinary skill in the art to modify the system of the co-pending claims by using an internal heater in order to provide a means for quick heating or cooling. One skilled in the art would understand that a vacuum vessel could be used as a pressure vessel because both require pressure-resistant walls.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 19-27, 34 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 is indefinite because it is unclear whether the phrase "said pressure vessel having undergone an incomplete outgassing bakeout step" is a positive limitation to the method. It is suggested that the phrase be deleted and inserted as a positive method step after "comprising." Claims 20-27 are rejected for depending from a rejected parent claim.

5. Claims 34 and 35 recite the limitation "The cryocooler pressure vessel" in line 2 of each claim. There is insufficient antecedent basis for this limitation in the claims with respect to claim 28 from which they depend in the alternative.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 10, 11, 14, 18-20, 23, 27-29, 31, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/24908 A1.

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8. WO '908 teaches a getter material (34) mounted to a pressurized gas storage vessel in an integral appendage (31) (figure 3, page 4, lines 13-23. The getter can comprise a zirconium alloy (page 6, lines 3-19) and is used to remove specific impurities from a working gas. The stored gas can be in liquid form and thus is cryogenically stored.

9. Claims 1, 2, 4-11, 13-20, 22-29 and 31-35 are rejected under 35 U.S.C. 102(b) as being anticipated by EP '420.

10. EP '420 teaches a system for reducing hydrogen contamination within a cryocooler storage vessel, comprising providing a zirconium alloy getter (6) in an integral appendage (7) of the vessel, evacuating the vessel, activating the getter with internal or external electrical heating elements, filling the pressure vessel with a gas, and sealing the vessel using valves (see figures, col. 5, lines 13-22, col. 7, lines 5-16, col. 8, lines 4-29, example 1).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3, 12, 21 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '420 in view of Watanabe et al. (2004/0123735).

13. EP '420 discloses all of the limitations of the claims except that the gas in the vessel is helium. Watanabe et al. '735 disclose a getter for purifying an inert gas such as helium within a storage vessel (see figures, paragraphs 24, 35, 39-41). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system of EP '420 by using it

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for storing helium in order to provide a contaminant removal system that dispenses a high-purity helium product that may have included contaminants resulting from packaging, shipment, storage and handling.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional references listed on the attached PTO-892 form disclose gas treatment and storage systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Lawrence whose telephone number is 571-272-1161. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank M. Lawrence
Primary Examiner
Art Unit 1724

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Frank Lawrence 2-14-06